

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**This filing relates to the
Commonwealth and ERS.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO AND THE EMPLOYEES
RETIREMENT SYSTEM OF THE GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO TO RESPONSES FILED BY RAFAEL CARRASQUILLO NIEVES
[ECF NO. 20641] AND RAMÓN A. LÓPEZ ALVARADO [ECF NO. 22896] TO THE
FOUR HUNDRED THIRTY-SECOND OMNIBUS OBJECTION (NON-SUBSTANTIVE)
TO CLAIMS ASSERTED AGAINST THE INCORRECT DEBTOR**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”) and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS,” and together with the Commonwealth, the “Debtors”), by and through the Financial Oversight and Management Board

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Debtors pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² file this reply (the “Reply”) in support of the *Four Hundred Thirty-Second Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico to Claims Asserted against the Incorrect Debtor* [ECF No. 20487] (the “Four Hundred Thirty-Second Omnibus Objection”). In support of this Reply, the Debtors respectfully represent as follows:

1. On April 01, 2022, the Debtors filed the Four Hundred Thirty-Second Omnibus Objection seeking to reclassify claims identified in the column titled “Asserted” in Exhibit A thereto (collectively, the “Incorrect Debtor Claims”), which identify the Commonwealth or ERS as obligor, when such claims are properly asserted, if at all, against PREPA. As explained in the Four Hundred Thirty-Second Omnibus Objection, the Incorrect Debtor Claims assert liabilities arising from purported billing overcharges by PREPA and/or liabilities for back wages and other compensation purportedly owed to PREPA employees. The Incorrect Debtor Claims provide no valid legal justification for asserting a claim against either the Commonwealth or ERS.

2. Any party who disputed the Four Hundred Thirty-Second Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on May 01, 2022, in accordance with the Court-approved notice attached to the Four Hundred Thirty-Second Omnibus Objection as Exhibit C thereto, which was served in English and Spanish on the individual creditors subject to the Four Hundred Thirty-Second Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Sixteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 20190-1]). See *Certificate of Service* [ECF No. 20558].

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

3. The following responses to the Four Hundred Thirty-Second Omnibus Objection were filed:

- An untitled response [ECF No. 20641] (the “Carrasquillo Nieves Response”) filed by claimant Rafael Carrasquillo Nieves (“Carrasquillo Nieves”), and
- An untitled response [ECF No. 22896] (the “López Alvarado Response”) filed by claimant Ramón A. López Alvarado (“López Alvarado,” and together with Carrasquillo Nieves, the “Claimants”).

I. The Carrasquillo Nieves Response

4. Carrasquillo Nieves filed a proof of claim against the Commonwealth on May 16, 2018, which was logged by Kroll as Proof of Claim No. 15774 (the “Carrasquillo Nieves Claim”). The Carrasquillo Nieves Claim asserts \$2,259,615.62 against PREPA for pension benefits and other post-retirement benefits. Carrasquillo Nieves Claim at 2-3.

5. The Carrasquillo Nieves Response, a Spanish-language letter, dated April 27, 2022, was filed on April 28, 2022, and docketed as ECF. No. 20641 on April 29, 2022. Therein, Carrasquillo Nieves asserts liabilities arising from his employment at PREPA, such as accrued but unpaid wages, which he alleges resulted in a lower pension, as well as detrimental changes to his retirement benefits. Carrasquillo Nieves Response at 3-4.

6. Although Carrasquillo Nieves states that he opposes the reclassification of the claim, the Carrasquillo Nieves Response provides no justification for asserting a claim against the Commonwealth. Because the Carrasquillo Nieves Claim asserts liabilities arising out of Carrasquillo Nieves’s employment with PREPA, any relief sought the Carrasquillo Nieves Claim and the Carrasquillo Response would be properly asserted, if at all, against PREPA.

7. Accordingly, the Carrasquillo Nieves Claim should be reclassified to be asserted against PREPA. Carrasquillo Nieves will not be prejudiced by the reclassification of his claim because his claim will be preserved as asserted against PREPA for determination at a later date.

The Debtors reserve the right to object to the Carrasquillo Nieves Claim on any other basis whatsoever.

II. López Alvarado Response

8. On June 26, 2018, López Alvarado filed a proof of claim against the Commonwealth, and it was logged by Kroll as Proof of Claim No. 128175 (the “First López Alvarado”). The First López Alvarado Claim asserts an undetermined amount against PREPA purportedly arising out of “[Law] 180.” First López Alvarado Claim at 2-3. On the same day, López Alvarado filed a second proof of claim against the Commonwealth, and it was logged by Kroll as Proof of Claim No. 162758 (the “Second López Alvarado Claim,” and together with the First López Alvarado Claim, the “López Alvarado Claims”). The Second López Alvarado Claim asserts an undetermined amount against PREPA for “[Law] 89.” Second López Alvarado Claim at 2-3.

9. The López Alvarado Response, an undated Spanish-language letter, was filed on November 18, 2022, and docketed as ECF No. 22896 on November 21, 2022. Therein, López Alvarado asserts liabilities arising from his employment at PREPA, such as accrued but unpaid wages, but provides no justification for asserting a claim against the Commonwealth. López Alvarado Response at 2. Because both López Alvarado Claims assert liabilities arising out of López Alvarado’s employment with PREPA, any relief sought by the López Alvarado Claims would be properly asserted, if at all, against PREPA.

10. Accordingly, the López Alvarado Claims should be reclassified to be asserted against PREPA. López Alvarado will not be prejudiced by the reclassification of his claims because his claims will be preserved as asserted against PREPA for determination at a later date.

The Debtors reserve the right to object to the López Alvarado Claims on any other basis whatsoever.

11. For the foregoing reasons, the Debtors request the Claims be reclassified in their entirety, notwithstanding the Responses.

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Dated: April 11, 2023
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

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